

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2007-051281

09/07/2007

HONORABLE GREGORY H. MARTIN

CLERK OF THE COURT

D. Kenney

Deputy

IN RE THE MATTER OF
MARIO ALBERTO KENNEDY

MATTHEW STEVEN SCHULTZ

AND

ALEXANDRA MARIA CUCOLI

MICHAEL J SHEW

FAMILY COURT SERVICES-CCC

MINUTE ENTRY

Courtroom 102 NE RCC

3:17 p.m. This is the time set for continuation of Evidentiary Hearing. Petitioner is present with counsel, Matthew Schultz. Respondent is present with counsel, Michael Shew.

A digital audio recording of this proceeding is being made by the "For the Record" recording system in lieu of a court reporter.

Mario Alberto Kennedy, having been previously sworn, resumes the stand and testifies further.

Petitioner's Exhibits 190 and 192 and Respondent's Exhibit 191 are marked for identification.

Respondent's Exhibit 191 is received in evidence.

Petitioner's Exhibits 171, 175 and 190 are received in evidence.

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Petitioner's Exhibit 192 is received in evidence.

Alexandra Maria Cucoli is sworn and testifies.

Respondent's Exhibits 90, 159 and 163 are received in evidence.

IT IS ORDERED taking this matter under advisement.

5:17 p.m. Hearing concludes.

LATER:

THE COURT SPECIFICALLY FINDS that it would not be in Carla's best interests for her to be shuttled back and forth, half way across the world, every three months as Father wants. The Court recognizes that the parenting time guidelines are, at best, only advisory. That said, the guidelines certainly do not support Father's position for an equal-time arrangement under the circumstances of this case. Father would have a more compelling position if he were arguing for being the primary residential parent—which he is not—rather than simply requesting equal time for a one-year old child when he lives in the United States and Mother is in Romania. The Court also acknowledges that under the circumstances of this case, attempting to decide what might be the best parenting time order for Carla is a somewhat arbitrary exercise. However, that is, the Court finds, in large part as a result of the fact that the Court does not have the benefit of an expert custody evaluation that was ordered by the Court because Father did not pay Dr. Joy's fees.

Accordingly, as Mother has been the primary caregiver for Carla during the first year of Carla's life, as the parties live thousands of miles apart in different countries, and it being in the best interests of Carla,

IT IS ORDERED awarding sole legal custody of the minor child, Carla (DOB: 8/9/06), to Mother (Alexandra Maria Cucoli), with Mother as also the primary residential parent. To be clear, Carla may go to Romania to live primarily with Mother, leaving September 15, 2007.

IT IS FURTHER ORDERED releasing Carla's passport to Mother or her authorized representative upon appearing at this Division during Court business hours.

IT IS FURTHER ORDERED that Mother complete the Parent Information Program as required by A.R.S. Sec. 25-352 and file a certificate of completion of same.

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IT IS FURTHER ORDERED that Father's parenting time shall consist of, at a minimum, two separate sessions of at least six weeks at a time during each year and that the year for purposes of determining Father's parenting time shall commence December 1, 2007.

One of the sessions shall include the Christmas holiday and Carla's birthday in alternating years at Father's discretion, with Father having the option of whether to have a session of his parenting time as soon as the Christmas holiday 2007.

The specific dates for Father's parenting time shall be at his discretion, so long as the dates that he chooses do not conflict with Carla's schedule once she begins school if this order is still the parenting time order.

If the parties are located in either Romania or the United States at the same time when Father is exercising his parenting time, Mother shall have no more than three overnights during that six week session of Father's parenting time. If it is not Father's parenting time, Father shall be entitled to not less than two overnights per week.

No later than May 1 of each year, Father shall advise Mother of his schedule for his regular parenting time.

Each party shall give the other at least 30 days advance notice if they intend to be in the same country where the other is located and desire to exercise any parenting time as ordered above.

IT IS FURTHER ORDERED that unless agreed otherwise between the parties, Father shall have at least one overnight visit before Mother leaves with Carla on September 15, 2007.

IT IS FURTHER ORDERED that Father's temporary child support obligation is now retroactive to Carla's birth. Father is current on his temporary child support obligation that commenced June 1, 2007.

Giving credit to Father for \$1,700 that has been paid to Mother for the support of Carla before the temporary order,

IT IS ORDERED awarding judgment to Mother and against Father in the amount of \$5,809.80 for back child support through May 2007, together with interest thereon at the legal rate until paid in full.

THE COURT NOW FINDS Father's monthly gross income for a prospective child support order is \$4,300. That figure is arrived at by adding to Father's monthly gross income of

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\$3,500, as stated by him, \$800 for his free housing provided by his family. The Court now attributes to Mother for purposes of a prospective child support order, monthly gross income in Romania if she were employed of \$350 plus \$500 for her free housing in Romania provided by her family for a total monthly gross income of \$850. For purposes of this calculation, the Court in its discretion declines to find any childcare costs are paid. Mother will provide health insurance at a cost to be determined in the future as Carla's Romanian citizenship is finalized upon her return to Romania. Father's parenting time adjustment is now 84 days.

Pursuant to the guidelines,

IT IS ORDERED that Father pay prospective monthly child support of \$586.88 and \$100 on his back support for a total monthly financial obligation of \$686.88, commencing October 1, 2007. These payments are to be made through the Child Support Payment Clearinghouse, P.O. Box 52107, Phoenix, Arizona, 85072-2107, pursuant to an Order of Wage Assignment. The payment should show the case number and/or ATLAS case number and the name of the party paying support and the name of the party who will receive the payment.

If payments are made directly to the person who is to receive the support, the payments may be considered a gift and no credit will be given towards the support obligation.

Any change in the paying party's employment and any change in the residential address of either party **must** be submitted to the Clerk's Office, in writing, within ten (10) days of the change (A.R.S. 25-322(C)). Failure to notify the Clerk's Office of any change may be considered contempt of Court.

IT IS FURTHER ORDERED, in the Court's discretion, that each party pay their own fees and costs incurred herein.

/ s / HONORABLE GREGORY H. MARTIN

JUDICIAL OFFICER OF THE SUPERIOR COURT

FILED: Child Support Order, Order of Assignment, Exhibit Worksheet

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/ssc/sschome.html>.